

CITY OF SAN JOSE  
Community Facilities District No. 12  
(Basking Ridge)

COMMUNITY FACILITIES DISTRICT REPORT

August 2, 2005

Prepared by

City of San José  
Department of Public Works  
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Special Districts

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## EXHIBITS

- Exhibit A - Description of Proposed Services
- Exhibit B - Cost Estimate
- Exhibit C - Rate and Method of Apportionment of Special Tax
- Exhibit D - Proposed Boundaries Map

## **INTRODUCTION**

**WHEREAS**, the City of San José (the “City”) utilizes Community Facilities Districts (the “District”) to finance various public services not currently available in an area or that are above and beyond what the City normally provides to the general public.

**WHEREAS**, Districts are established pursuant to the San José City Charter and Chapter 14.27 of the San José Municipal Code, which incorporates and modifies the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing at Section 53311, of the California Government Code.

**WHEREAS**, the City relies on its charter city powers to expand the list of improvements and services that can be funded through a District.

**WHEREAS**, the area bounded by Community Facilities District No. 12 is currently in the development process. This area is beyond reach of the City’s standard gravity sanitary sewer system requiring the construction, operation and maintenance of sanitary sewer pump station, a non-urban secondary storm drain system, and other infrastructure necessary for its development.

**WHEREAS**, a condition of the development requires the formation of a Special District to fund the operation and maintenance of the improvements associated with this development.

**WHEREAS**, on June 28, 2005, this Council adopted a resolution entitled “A Resolution of the Council of the City of San José of Intention to Establish a Community Facilities District and to Authorize the Levy of Special Taxes” (the “Resolution of Intention”).

**WHEREAS**, in the Resolution of Intention, the Council expressly ordered the preparation of a written Community Facilities District Report (the “Report”), for the proposed District.

**WHEREAS**, the Resolution of Intention ordering the Report did direct that the Report generally contain the following:

1. A description of the Services by type, which will be required to adequately meet the needs of the District; and
2. An estimate of the fair and reasonable cost of the Services, including incidental expenses in connected with said Services.

**WHEREAS**, the Resolution of Intention set a public hearing on August 9, 2005 on the establishment of the District.

**WHEREAS**, the ballot measure for consideration is “Shall the City of San José (the “City”) be authorized to impose and levy annually, a special tax within Community Facilities District No. 12 (Basking Ridge) (the “District”), commencing in the City’s fiscal year 2005-2006, upon lands within the District boundaries, to pay for the authorized services, costs and expenses as defined in the Community Facilities District Report; and shall the annual appropriations limit of the District be established in the amount of \$326,742, with annual percentage adjustments not to exceed the percent change in the average annual CPI?” The CPI is the Consumer Price Index for the San Jose-San Francisco-Oakland area as calculated by the U.S. Department of Labor.

### **COMMUNITY FACILITIES DISTRICT NO. 12**

The boundaries of Community Facilities District No. 12 (Basking Ridge) (the “CFD”) are shown on a boundary map that was approved by the City Council and recorded in the Books of Maps of Assessment and Community Facilities Districts in the Santa Clara County Recorder’s Office. The area bounded by the CFD is a planned development community that will develop 213 single-family detached residential units.

This planned development community is located on a non-urban hillside. Because of its location, construction of a sanitary sewer pump station, a non-urban secondary storm drain system, drainage ditches and swales, detention ponds/basins, and other infrastructure necessary for the development of this community (the “Improvements”) is required to provide atypical storm and sanitary sewer services to this community. Because the Improvements, including the enhanced landscaped areas in the public right-of-way, open space, and easement areas, have special maintenance needs that are above standard City maintenance, the formation of the CFD is necessary to fund the high maintenance and operation costs associated with the Improvements.

The City Council will hold a public hearing and conduct an election associated with the formation of the CFD. If at least two-thirds of the votes submitted by the landowners are in favor of the CFD, the CFD will be formed and the levy of the special tax will be authorized to provide for the maintenance and operation of the Improvements. The special tax will continue for future years.

### **DESCRIPTION OF PROPOSED SERVICES**

The CFD will be responsible for the maintenance and operation of numerous public improvements. The services provided will include the necessary servicing, repairs, replacements, equipment, supplies, water, fuel, power, electric current, care, supervision and any and all other items necessary for the safe and proper maintenance and operation thereof. A general description of the proposed services are shown in “Exhibit A” attached hereto and hereby made a part hereof.

**COST ESTIMATE**

The estimated costs of the services within this report to be provided by the district are reflected in year 2005 dollars. Regardless of the actual maintenance costs in future years, the special taxes levied within the CFD will never exceed the maximum rates identified in the Rate and Method of Apportionment of Special Taxes, unless approved by the qualified electors within the district during that time. The estimated cost of services for the CFD is set forth in "Exhibit B" attached hereto and hereby made a part hereof.

**RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES**

A special tax will be levied annually to pay for the services provided through the district, and will be secured by a continuing lien against all nonexempt real property in the district. The rate and method of apportionment of special taxes for the CFD is set forth in "Exhibit C" attached hereto and hereby made a part hereof.

**PROPOSED BOUNDARIES OF THE COMMUNITY FACILITIES DISTRICT**

The proposed boundaries of the CFD are those properties and parcels in which special taxes may be levied to pay for the costs and expenses of the Services. The proposed boundaries of the CFD are generally described as the urban service boundary on the north, Metcalf Road on the east, US Highway 101 on the south and a line approximately 150 feet east of Danna Court and Esplanade Lane on the west, as shown on the map of the CFD set forth in "Exhibit D" attached hereto and hereby made a part hereof. The original boundary map is on file with the Santa Clara County Recorder's Office.

**NOW, THEREFORE, I,** the Director of Public Works do hereby submit the report to be filed with the City Clerk to fulfill the state requirements of forming a District and to provide guidance on the operation of the district.

Dated as of \_\_\_\_\_

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Katy Allen, Director of Public Works  
City of San José

**Exhibit A****DESCRIPTION OF PROPOSED SERVICES**

The services proposed to be financed by Community Facilities District No. 12 (Basking Ridge) (the “CFD”) of the City of San José will provide for the maintenance of various improvements associated with the Basking Ridge development project. Maintenance of the improvements may include but will not be limited to necessary repairs, replacements, equipment, supplies, water, fuel, power, electricity, supervision and all other items needed for safe and proper maintenance of the items set forth below. This list identifies improvements authorized for maintenance by the CFD; however, not all items on this list are guaranteed to be funded by the district.

**Items Authorized to be Maintained**

- Open spaces and slopes
- Non-urban storm system
- Storm water detention ponds/basins
- Drainage swales/ditches
- Emergency vehicle access roadway
- Maintenance access roadways
- Screening trees
- Trails and paved pathways
- Sanitary sewer pump station
- Retaining walls
- Landscaping and irrigation
- Weed abatement around the pump station facilities and detention pond
- Litter and graffiti removal at pump station facilities and retaining wall

**Exhibit B****COST ESTIMATE**

The following table summarizes the annual cost that will be financed by the parcels within the boundaries of the District. These costs are 2005 dollars and may be increased in future years.

<b>ITEM</b>	<b>COST</b>
LANDSCAPE:	\$210,826
Weed Abatement	
Litter and Graffiti Removal	
Debris Control	
MAINTENANCE, PARTS, AND REPAIRS:	\$73,300
Access Road, Fencing, and Gates	
Pump Stations and Appurtenances	
Ditches/Swales, Basins, and Force Mains	
Retaining Walls	
ADMINISTRATION	\$42,616
<hr/>	
<b>Total Annual Cost (2005 \$)</b>	<b>\$326,742</b>

## **Exhibit C**

### **RATE AND METHOD OF APPORTIONMENT**

A Services Special Tax shall be levied on all Taxable Parcels within Community Facilities District No. 12 (Basking Ridge) (the “CFD”), and collected according to the Rate and Method of Apportionment of Special Taxes described herein.

#### **A. DEFINITIONS**

The terms hereinafter set forth have the following meanings:

**“Acre or Acreage”** means the land area of an Assessor’s Parcel as shown on an Assessor’s Parcel Map, or if the land area is not shown on an Assessor’s Parcel Map, the land area shown on the applicable final subdivision map or other parcel map recorded at the Santa Clara County Recorder’s Office.

**“Administrator”** means the individual(s) designated by the City to administer the CFD in accordance with the authority and powers granted by the City Council.

**“Airspace Parcel”** means an Assessor’s Parcel that shares common vertical space of an underlying land parcel with other parcels that have been assigned Assessor’s Parcel numbers.

**“Assessor’s Parcel”** or **“Parcel”** means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel number.

**“Assessor’s Parcel Map”** means an official map of the County Assessor of the County of Santa Clara designating parcels by Assessor’s Parcel number.

**“City”** means the City of San José.

**“City Council”** means the City Council of the City of San José, acting as the legislative body of the CFD.

**“Developed Property”** means, in any Fiscal Year, all Taxable Property for which a building permit for new construction has been issued prior to June 30 of the preceding Fiscal Year.

**“Electors”** means the qualified voters, who are either the registered voters residing within the CFD (when there are at least 12) or the landowners within the CFD.

**“Fiscal Year”** means the period starting July 1 and ending on the following June 30.



**“Final Map”** means a final map, or portion thereof, approved by the Director of Public Works pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) and Chapter 19.16 of the San José Municipal Code.

**“Index”** means the Consumer Price Index of the San Jose-San Francisco-Oakland area for all urban consumers for all items.

**“Maximum Special Tax”** means the maximum Special Tax, determined in accordance with Section B below that can be levied on Taxable Property in any Fiscal Year.

**“Non-Residential Property”** means Parcels of Developed Property within the CFD that are not Residential Property.

**“Ordinance”** means, collectively, the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5 commencing at Section 53311 of the California Government Code, and Chapter 14.27 of Title 14 of the Municipal Code of the City.

**“Public Agency”** means the federal government, State of California or other local governments or public agencies.

**“Residential Property”** means Parcels of Developed Property for which a building permit was issued for construction of a residential structure, including single family detached, duplex, triplex, fourplex, townhome, condominium or apartment units.

**“Special Tax”** means a special tax levied in any Fiscal Year to pay the Special Tax Requirement.

**“Special Tax Requirement”** means the amount necessary in any Fiscal Year to (i) pay authorized maintenance expenses, (ii) create a sinking fund for replacement of facilities, (iii) pay administrative expenses of the CFD, (iv) cure delinquencies in the payment of Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected.

**“Subsequent Non-Residential Property”** means (i) a Parcel of Non-Residential Property which had, in any prior Fiscal Year, been taxed as Residential Property, or (ii) a Parcel that was, in the City’s sole discretion, expected to be Residential Property and subsequently had a building permit issued for a non-residential use. Notwithstanding the foregoing, if the City determines that, in conjunction with a particular Parcel being changed from a residential to a non-residential designation, there was a corresponding transfer of the residential land uses to another Parcel in the CFD, the City may but is not required to categorize that Parcel as Subsequent Non-Residential Property.

**“Taxable Property”** means all Assessor’s Parcels within the boundaries of the CFD that are not exempt from the Special Tax pursuant to law or Section E below.

**“Unit”** means a residential dwelling unit, including individual single-family detached, duplex (2 units), triplex (3 units), fourplex (4 units), townhome, condominium, or apartment units.

## **B. MAXIMUM SPECIAL TAX**

The Maximum Special Tax for Residential Property in the CFD is \$1,534 per Unit for Fiscal Year 2005-06. Beginning January 2, 2006 and each January 2 thereafter, this Maximum Special Tax shall be adjusted by applying the average annual change in the Index that has occurred since the prior year. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1.

## **C. CALCULATION OF THE SPECIAL TAX**

Each Fiscal Year, the Special Tax shall be levied on all Parcels of Developed Property as follows:

- Step 1: Determine the Special Tax Requirement (see definition in Section A above) for the Fiscal Year in which the Special Tax will be collected;
- Step 2: Calculate the total Special Tax revenues that could be collected from Developed Property within the CFD based on application of the Maximum Special Tax rates determined pursuant to Section B above;
- Step 3: If the amount determined in Step 1 is greater than the amount calculated in Step 2, levy the Maximum Special Tax on all Parcels of Developed Property pursuant to Section B above. Even though the Special Tax Requirement is greater than the total Special Tax revenues that can be collected in the CFD, only the Maximum Special Tax may be collected unless a higher Maximum Special Tax is approved by two-thirds of the Electors voting in an election to increase the Maximum Special Tax.

If the amount determined in Step 1 is equal to the amount calculated in Step 2, levy the Maximum Special Tax on all Parcels of Developed Property pursuant to Section B above.

If the amount determined in Step 1 is less than the amount calculated in Step 2, levy the Special Tax on all Parcels of Developed Property in equal percentages up to 100% of the Maximum Special Tax for each Parcel until the amount of the Special Tax levy equals the Special Tax Requirement for that Fiscal Year.

**D. COLLECTION OF THE SPECIAL TAX**

The Special Tax for the CFD shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the CFD may (under the authority provided in the Ordinance), in any particular case, bill the taxes directly to the property owner off the County tax roll, and the Special Taxes will be equally subject to penalties and foreclosure if delinquent.

**E. LIMITATIONS**

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Tax shall be levied on land that has been conveyed to a Public Agency, except as otherwise provided in Sections 53317.3 and 53317.5 of the Mello-Roos Community Facilities Act of 1982. If a Parcel had been taxed in any prior Fiscal Year as Residential Property and becomes Subsequent Non-Residential Property, the City has the discretion to levy a Special Tax against such Parcel if the Special Tax revenues generated from the Parcel are needed to meet the Special Tax Requirement.

**F. INTERPRETATION OF SPECIAL TAX FORMULA**

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the rate and method of apportioning Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment.

## Exhibit D

